IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1406 OF 2006

Rashmikant S. Bhatt Petitioner
vs.
The Chief Officer, Maharashtra
Housing & Area Development Board & anr. Respondents

Mrs.Aparna Muralidharan for the petitioner.

Mr.R.M.Sawant, Government Pleader for the respondent no.1.

Mr.Y.K.Tiwari with Mr.M.J.Shetty for the respondent no.4.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 21st August, 2006

P.C.

The respondent no.4 has a decree in their favour obtained from the Small Causes Court for eviction of the members of the Society with the proposal of re-construction and giving alternative premises in the building reconstructed to the tenants. This decree was passed on 4th October, 2005. This aspect has not been pleaded by the petitioners in the present petition.

2. The case of the petitioner is that they are promoters of the society formed for the purpose of reconstruction of the said building in terms of law and that their application is not being processed by the respondent no.2. The last reply which they have

received is dated 31st July, 2006 wherein the respondent no.2 intimated to the Chief Promoter of the proposed society that a decision could not be taken in view of the conflicting claims by Reshma Constructions, which is a proprietory concern of the respondent no.4.

3. A proposed society is allowed to develop subject to the requirement of obtaining consent of 70% of the tenants. There is a serious dispute if they have support of 70% of the tenants. In the instant case, the order of eviction against the tenants is passed. The learned counsel states that an appeal is pending. Even if that be so, it will not be possible for this Court at this stage to grant any mandamus as sought for by the petitioners considering the order in favour of the respondent no.4. Apart from that the petitioner has suppressed material particulars of the decree for eviction which should have been pointed out in this petition.

4. With the aforesaid reasons, the petition is dismissed.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)